IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.26757 of 2005
LAXMI RAI
Versus
STATE OF BIHAR & ANR

For the petitioner: Mr. R.S.Pradhan
For the opp.party no.2: Mr. Amitabh Bhardwaj
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12 **15.7.2008** Heard learned counsel for the petitioner, learned counsel for the State and learned counsel for opposite party no.2.

This application has been filed for quashing the order dated 22.6.2005 passed by learned 4th Additional Sessions Judge, Samastipur in Cr.Revision no. 300/04 whereby and whereunder he has allowed the revision.

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It has been argued on behalf of the petitioner that against the order dated 27.9.2003 the revision was filed before the learned Sessions Judge, Samastipur on 25.6.2004 i.e. after an inordinate delay of nine months. An application was also filed on behalf of the petitioner to condone the delay. The matter was argued before the learned Additional Sessions Judge but unfortunately he failed to examine the limitation matter and decided the revision on merit only. Learned counsel further submitted that the matter may now be remanded to the learned Additional Sessions Judge for deciding the limitation matter.

It appears that along with revision application a petition under section 5 of the Limitation Act was filed on behalf of the petitioner to condone the delay in filing the revision.

According to both the parties, the learned Additional Sessions Judge has disposed of the revision without condoning the delay in filing the same. The Code of Criminal Procedure is not a special law in terms of section 29(2) of the Limitation Act so as to exclude the application of the Act.

In face of the aforesaid fact the order in question dated 22.6.2005 is quashed and the matter is remanded to the court below for fresh consideration in accordance with law. The court in seisin of the matter shall first dispose of the limitation matter and if he decides to condone the delay then he shall decide the revision afresh on merit.

With the said direction, this application stands disposed of.

Let the lower court record be sent down immediately.

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(M.Saran,J)